

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DAVE DEBONO, individually and on behalf
of all others similarly situated,

Plaintiffs,

-against-

RIVERVIEW RESTAURANT, INC., et al.,

Defendants.

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POLLAK, United States Magistrate Judge:

On July 6, 2017, plaintiffs Dave DeBono, Bilguun Gankhuyag, Amalendu Sikidar, and Gerardo Turtula commenced this action against defendants Riverview Restaurant, Inc., Abdelaziz Raouf, and Hassan Raouf (collectively, “defendants”), alleging a failure to pay minimum wages, overtime pay, spread-of-hours wages, and uniform maintenance pay in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”), and the New York Labor Law (“NYLL”). On December 14, 2018, plaintiffs informed the Court that the parties had agreed to conditionally certify an FLSA collective but raised several concerns regarding the plaintiffs’ proposed collective action Notice.

First, defendants request 60 days to produce a list with the contact information for their employees, instead of plaintiffs’ proposed 14-day deadline. (Pls.’ Ltr.).¹ Plaintiffs request “a significantly shorter deadline since the statute of limitations for all potential opt-in plaintiffs continues to run.” (*Id.*) Upon considering the parties’ respective positions, the Court Orders

¹ Citations to “Pls.’ Ltr.” refer to plaintiffs’ letter filed December 14, 2018, ECF No. 44.

MEMORANDUM AND ORDER

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defendants to provide plaintiffs' counsel with the employee names and contact information within 30 days of the approval of the Stipulation.

The parties further disagree as to including a provision in the “opt-in notice” that asks the prospective collective members to indicate that they “hereby consent to join” the action as an opt-in. (*Id.*) Defendants request that plaintiffs “include a section on the opt-in notice that offers potential opt-in plaintiffs a choice between ‘I hereby consent to join’ and ‘I do not consent to join.’” (*Id.*) Plaintiffs object to this request and argue that it “serves only to add potential confusion to opt-in plaintiffs.” (*Id.*) The Court agrees and denies defendants’ request to amend the collective Notice.

The parties are to make any necessary revisions to their Stipulation and Proposed Order and file the revised document by December 28, 2018.

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
December 20, 2018